

REMARKS

Claims 53-104 are currently pending.

In the Office Action, the Examiner requires that the claims be restricted to one of the following three groups under PCT Rule 13.1:

- I. Claims 53-71, drawn to a fuel cell,
- II. Claims 72-76, drawn to a polymer electrolyte membrane, and
- III. Claims 77-104, drawn to a process for producing a polymer electrolyte membrane.

See Mar. 27, 2009, Office Action at 2.

Applicants respectfully traverse the restriction requirement. However, to be fully responsive, Applicants elect the subject matter of Group I, comprising claims 53-71.

Applicants reserve the right to pursue the unelected subject matter in continuation and/or divisional applications.

The Examiner asserts the following:

The inventions listed as Groups I, II, and III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Group I lacks the special feature of a polymer electrolyte membrane in which said chains are grafted to the polyolefin through an oxygen bridge required in Group II, and lacks the process for producing a polymer electrolyte membrane comprising the step of irradiating a polyolefin in the presence of oxygen required in Group III.

Group II lacks the special feature of a fuel cell as required [in] Group I and lacks the process for producing a polymer electrolyte membrane comprising the step of irradiating a polyolefin in the presence of oxygen, as required [in] Group III.

Group III lacks the special feature of a fuel cell as required [in] Group I, and lacks the special feature of a polymer electrolyte membrane in which said chains are grafted to the polyolefin through an oxygen bridge required in Group II.

Id. at 2.

Applicants submit that the Examiner has not established a proper basis for the Restriction Requirement. Applicants respectfully refer the Examiner to M.P.E.P. § 803, which sets forth the criteria and guidelines for Examiners to follow in making proper requirements for restriction. The M.P.E.P. instructs the Examiner as follows:

If the search and examination of all the claims in an application can be made **without serious burden**, the examiner **must** examine them on the merits, even though they include claims to independent or distinct inventions.

M.P.E.P. § 803 (emphasis added).

Here, the Examiner has not shown that examining Groups I-III together would constitute a serious burden, irrespective of whether or not they relate to a single general inventive concept. The Examiner does not specify what serious burden will be placed on the Examiner if the Examiner were to proceed in examining Groups I-III together, as required by M.P.E.P. § 803.

Additionally, Applicants submit no serious burden would exist in light of the requirement of rejoinder. See M.P.E.P. § 821.04. Thus, it is unclear what burden is on the Examiner to examine the claims of Groups I-III together, and Applicants respectfully request withdrawal of the restriction requirement.


If there is any fee due in connection with the filing of this Statement, please
charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 9, 2009

By: _____


Aaron M. Raphael
Reg. No. 47,885
(202) 408-4000